

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Tuesday, January 5, 2021

In accordance with order of the Office of the Governor issued March 16, 2020, the City Council of the City of Universal Council will conduct a telephonic and videoconference meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19).

The meeting will be held on Tuesday, January 5, 2021 at 6:30 P.M.

The public may participate in this meeting by dialing US Toll-free to 877-853-5247 (Meeting ID: 666 263 7178 and Password: UCTX2150) or by joining the Zoom meeting at <https://us02web.zoom.us/j/6662637178?pwd=UkF3RkdMeFpWSmNCbThYS1lUV3Izdz09>

The public will be permitted to offer public comments telephonically or via videostream as provided by the agenda and as permitted by the presiding officer during the meeting. Written questions or comments may be submitted up two hours before the meeting to Kristin Mueller, City Clerk at kmueller@uctx.gov.

A recording of the telephonic and video meeting will be made and will be available to the public in accordance with the Texas Public Information Act upon written request.

1. CALL TO ORDER: Mayor John Williams at 6:30 p.m.
2. QUORUM CHECK: Kristin Mueller, City Clerk

Present:

Mayor John Williams
Mayor Pro Tem Richard Neville
Councilmember Goolsby
Councilmember Tom Maxwell (Virtually)
Councilmember Paul Najarian
Councilmember William Shelby
Councilmember Beverly Volle (Virtually)

Present:

Kim Turner, City Manager
Matthew Longoria, City Attorney
Michael Cassata, Development Services Director
Kristin Mueller, City Clerk/Economic Dev Director

Mayor Williams noted a quorum was present.

3. INVOCATION: Mayor Pro Tem Neville gave the invocation.
4. PLEDGE OF ALLEGIANCE TO THE U.S. AND TEXAS FLAG: Led by Mayor Williams.
5. VOTE TO CONSIDER THE EXCUSE OF ABSENT MAYOR/COUNCILMEMBERS:

No action was necessary; all members were present.
6. AWARDS/PROCLAMATION/INTRODUCTION OF GUESTS:

Mayor Williams introduced Fire Chief Manuel Casarez. Mr. Casarez explained that the Fire Department stopped their student outreach clown program last year. He said that he had been looking for a new student outreach program and believed that he found a program that would not

only be rewarding to the students but therapeutic to the firefighters as well. He introduced Jesse Fowler, Firefighter and handler of the new Universal City fire dog, Ace. Mr. Fowler introduced Ace to the audience and detailed how the new fire dog program was developed. Mr. Fowler said that Ace had completed some of his training and he looks forward to introducing Ace to the students in Universal City.

Councilmembers read a proclamation declaring January 5, 2021 as "Thomas W. Howe Day" in Universal City. Mayor Williams presented Mr. Howe with the proclamation. Mr. Howe served as the Prosecutor for the City of Universal City Municipal Court since 1997 and has been an invaluable source of court knowledge throughout his 24 years of service. Mr. Howe thanked the City Council for the honor and said that he would not have served as long as he did without the support of the Court Administrator, Linda Rose. Ms. Rose presented Mr. Howe with a gift certificate of 4 rounds of golf at Olympia Hills as a token of appreciate for his years of service.

7. CONSENT AGENDA:

Mayor Pro Tem Neville moved to approve the following consent agenda items:

- a) Consider the minutes of the Tuesday, December 15, 2020 Regular Meeting.
- b) Consider Ordinance 361-AA-2020: An Ordinance of the City of Universal City, Texas authorizing the acceptance of credit cards for payment of fees, fines, court costs and other charges; providing for a processing fee for credit card payment of fees, fines, court costs and other charges; providing for a service charge if payment by credit card is not honored; providing for severability, cumulative and savings clause; providing an effective date and amending the Code of Ordinances accordingly. (2nd Reading).

Councilmember Shelby seconded the motion.

**Vote: Yeas: Neville, Shelby, Goolsby, Maxwell, Najarian, Volle
Nays: None**

Motion to approve carried.

8. CITIZENS TO BE HEARD: None.

9. BUSINESS:

A. Consider Approval of Pay Estimate #3 invoice for the West Byrd Drainage Project.

Councilmember Goolsby moved to approve Pay Estimate #3. Councilmember Najarian seconded the motion.

**Vote: Yeas: Goolsby, Najarian, Neville, Maxwell, Shelby, Volle
Nays: None**

Motion to approve carried.

B. Consider proposal from the Law Offices of Davidson Troilo Ream & Garza to appoint a new Universal City Municipal Court Prosecutor.

City Manager Kim Turner said that with the departure of Mr. Howe, the City must replace its prosecutor. The Law Office of Davidson Troilo Ream & Garza submitted a proposal to serve as the City's prosecutor for traffic related citations (the City currently has an agreement with Denton Navarro Rocha Bernal & Zech for non-traffic related cases). Brenda Watkins, the new Court Administrator, Judge Stubblefield, Mr. Howe and Ms. Rose, met with the agency and confirmed that Justin Nail with Davidson Troilo Ream & Garza would be the best fit for Universal City Municipal Court.

Mr. Nail gave an overview of his experience with municipal courts and said that he appreciated the opportunity to work with the City of Universal City.

Mayor Pro Tem Neville moved to accept the proposal from the Law Offices of Davidson Troilo Ream & Garza. Councilmember Shelby seconded the motion.

Vote: Yeas: Neville, Shelby, Goolsby, Maxwell, Najarian, Volle
Nays: None

Motion to approve carried.

- C. Public Hearing: Ordinance 655-C-2021 & P.C. 535 (SU 004)— A request for a Specific Use Permit at 1825 Pat Booker Road (CB 5047F BLK 2, LOT 17 UNIVERSAL HEIGHTS SUBDIVISION) to allow a professional office use in the form of a tax business in a C2-Retail District, per zoning ordinance 581.**

City Manager Kim Turner said that there were two public hearings on this request because it was brought to the City's attention that notice was not properly posted for the first public hearing. She asked Development Services Director to elucidate.

Mr. Cassata said that this property is in the strip center with 7 tenant suites. The proposal is to establish a Liberty Tax Office in one of the suites. The property is currently zoned C2-Retail. Per the Zoning Code, that type of use must petition for a Specific Use Permit. City Staff sent out 15 notices to property owners within 200 feet and no replies were received. There was a letter of support sent in from the property owner, Graham Carter.

Mr. Cassata explained that many economists have studied what the appropriate mix of non-retail in retail shopping centers as the non-retail use can compliment the retail use. City staff has researched what the appropriate mix of non-retail space to be allowed in a retail zone and feel comfortable with approximately 25% of non-retail use on a property zoned retail. At this specific shopping center, there is currently 800 sq ft of non-retail space, Farmers Insurance. If Liberty Tax was to occupy another 800 sq ft space, 28% of the facility would be non-retail and 72% retail, meeting the approximate 25% threshold.

Mr. Cassata announced that at the first Planning and Zoning Commission Public Hearing, which was not official, the Commission denied the request with a 0-9 vote. At the second and official public hearing, the Planning and Zoning Commission voted to deny the request with a 2-7 vote. Mr. Cassata introduced the applicants.

Mayor Williams opened the Public Hearing at 6:56PM.

Pamela Faison, petitioner for the Specific Use Permit at 1815 Pat Booker Rd, thanked City Council for hearing her request. She explained that her and her husband own two Liberty Tax

offices and that they would like to move their Live Oak location to Universal City. She explained that even though tax season is only four months a year, they are open and operating year-round. She reminded that the space has been empty almost two years and she would like Liberty Tax to take that last empty suit at 1815 Pat Booker Rd.

Matt Epple, one of the three partners of 1815 Pat Booker Rd, said that he is an expert in retail real estate. Over the last 15 years, he has worked with the Weitzman, one of the largest regional real estate companies in the nation. Wiseman Company has recognized that over the last 10 years 85% of the lease transactions have been for non-retail space. Since COVID-19, lease transactions are down over 30%. When looking at the traditional retail sector, 80% of bankruptcies are true soft-good retailers. The only areas that big retailers are still signing leases are in malls or in shopping centers anchored by Target, Marshalls, and the like.

Judy Schindler, 619 Balboa, asked for clarification as to which shopping center was being discussed. Then she asked if the new laundromat was considered retail and it was confirmed that laundromat are considered retail.

Graham Carter, partner in the property at 1815 Pat Booker Rd, submitted a video in support of issuing the Specific Use Permit to Mrs. Faison. He said that shopping centers are more attractive and better maintained when they are full. This suite has been vacant for two years and any active business helps to bring tax revenue to the City. He believes that there is not a market for true retailers for their shopping center suite as it is only 800 sq ft and the trend is for ecommerce and big box stores. He is afraid the suit will stay vacant if they continue to look for true retail.

Mayor Williams closed the Public Hearing at 7:08PM.

D. Discuss and Consider Ordinance 655-C-2021 (PC 535 SU 004): An Ordinance approving a Specific Use Permit to Liberty Tax for a Professional Office Use in a C2-Retail District on property located at 1825 Pat Booker Road, Universal City, Texas (CB 5047F BLK 2, Lot 17 Universal Heights Subdivision); providing for non-severability; and establishing an effective date. (1st Reading).

Mayor Pro Tem Neville asked if the sign twirler would have space to do so with the ingress/egress at that shopping center.

Mrs. Faison said that there is a safe location for them to twirl. She would not put someone in an unsafe position just to twirl a sign.

Councilmember Shelby asked for clarification on all the tenants of the shopping center. Mrs. Turner said that the shopping center consists of Farmer Insurance, a vapory, the laundromat, and the empty endcap. He then asked what where the concerns of the Planning and Zoning Commission. Mrs. Turner said that there are long term members on the Planning and Zoning Commission, and they are remembering from 2007 when they were taught that signalized intersections needed to be reserved for retail. Much to their credit, they are sticking to what they have been taught. However, Mr. Cassata pointed out the shopping center has a significant amount of retail for that size of shopping center.

Councilmember Shelby moved to approve Ordinance 655-C-2021. Councilmember Goolsby seconded the motion.

Councilmember Najarian welcomed Mrs. Faison back and commented on how eloquent she was in presenting her request at the last City Council meeting. He said he believes that Liberty Tax will attract foot traffic for that shopping center. He believes that they belong in Universal City.

Councilmember Maxwell said that Liberty Tax may very well bring in foot traffic to the shopping center but wanted to remind City Council that due to the change in retail, it is likely that all the shopping center owners will try to fill their empty suites with non-retail. He asked the City Council to reflect on that moving forward. He said he is not against this project, it is only 800 sq ft of space, but it is 800 sq ft of space in a city only 5 square miles.

Councilmember Volle asked if this was presented to Planning and Zoning. The Mayor confirmed that it was presented to the Planning and Zoning Commission. Mrs. Turner reiterated that the P&Z vote was 2-7, denying the request.

Councilmember Shelby stated that the decision is easier for him to make because the permit is a Specific Use Permit and no longer a Conditional Use Permit.

Mayor Pro Tem Neville asked if there would be enough parking at that location with the opening of the laundromat in the same shopping center. Mrs. Faison voiced that she believes there will be enough parking for both uses.

**Vote: Yeas: Shelby, Goolsby, Neville, Maxwell, Najarian, Volle
Nays: None**

E. Public Hearing: Ordinance 655-D-2021 & P.C. 537 (SU 006)— A request for a Specific Use Permit at 433 Kitty Hawk Road, Suite 113 (CB 5047E BLK 2, LOT 1 KITTY HAWK PROFESSIONAL BUILDING) to allow a personal improvement services use in the form of a recording, filming and photography studio in a C1-Neighborhood Services District, per zoning ordinance 581.

Mrs. Turner said that this item was also heard by the Planning and Zoning Commission and there was no objection to this particular use at his location.

Mr. Cassata stated that City Staff put conditions in the Specific Use Permit to ensure that the proposed tenant did not disrupt the business of current tenants. Those conditions are that recording cannot happen until after 6PM and must stop before 5AM, they would soundproof their suite to the best of their ability, and if there are any noise complaints in the future, the City has the authority to revoke their Specific Use Permit.

Mayor Williams opened the Public Hearing at 7:23PM.

Milton Johnson, 2826 Lavender Meadow, San Antonio, explained that his non-profit Christian organization provides filming, photography, and audio engineering services for Christian entities. They do prison ministries and virtual church services. They want to occupy the suite at 433 Kitty Hawk so that they have one physical location to do their work.

Mayor Williams closed the Public Hearing at 7:26PM.

F. Discuss & Consider Ordinance 655-D-2021 (PC 37 SU 006): An Ordinance approving a Specific Use Permit to Led by the Spirit – Leading by Example for a Personal Improvement Services use in a C1-Neighborhood Services District on property located at 433 Kitty Hawk Road, Suite 113,

Universal City, Texas (CB 5047E BLK 2, LOT 1 KITTY HAWK PROFESSIONAL BUILDING); providing for non-severability; and establishing an effective date. (1st Reading).

Councilmember Goolsby moved to approve Ordinance 655-D-2021 (PC 37 SU006). Councilmember Shelby seconded the motion.

Councilmember Najarian asked if letters had to be sent to surrounding tenants. Mr. Cassata clarified that tenants did not receive letters. The property owner did receive notice and as well as the 7 property owners surrounding the area and none of them returned a response.

Councilmember Maxwell asked if there were apartment complexes surrounding the property. Mr. Cassata said that there is an apartment complex across Kitty Hawk as well as down the block. Mr. Cassata stated that with the distance away from the complexes and with the conditions included in the Specific Use Permit, staff believes there is not an issue. Councilmember Maxwell reiterated that he still believes there is cause for concern.

Mr. Johnson explained that they do not record with live instruments but with a recorded track. He also detailed the three-step process they will take to soundproof his suite. He does not plan to blast music but understands the councilmember's concern.

Councilmember Maxwell asked if a condition could be added to the permit to say that live instrument recording is prohibited. Mr. Cassata said that it could, but he believes that the conditions already listed would suffice.

Councilmember Volle asked if the facility would be unlocked all night. Mr. Johnson said that it will not be unlocked all night. They will operate on an appointment-only basis and that he has a full-time job in addition to the non-profit, so he will not be up there all-night recording.

Councilmember Shelby asked what percentage of his work time is spent recording music? Mr. Johnson said very little, the majority of their business is filming and photography and is actually done off-site. Councilmember Shelby asked where in the building the suite is located. Mr. Johnson said the right building, first floor, first unit on the right. Councilmember Shelby pointed out that the suite is as far away from the apartment complex that it could be and sound would have to travel through another building before it reached the apartment complex. Councilmember Shelby said that as long as they are not laying down a drum track, then he is not concerned with sound levels.

Councilmember Goolsby said the conditions added into the Specific Use Permit, he has no concerns.

Mayor Pro Tem Neville asked if Mr. Johnson thought it would be necessary to have a security system. Mr. Johnson said they were working on getting one.

**Vote: Yeas: Goolsby, Shelby, Neville, Maxwell, Najarian, Volle
Nays: None**

- G. Public Hearing: Ordinance 632-PC 538A & P.C. 538.A (ZC 217 FLUP)—A request for an amendment to the Future Land Use Plan for a 4.8606 Ac tract located at 401 W. Byrd Boulevard (CB 5768B BLK 8 LOT SW 250FT OF 39); specific request is to amend FLUP from NS-Neighborhood Services to HDR-High Density Residential.**

Mayor Williams informed that the petitioner withdrew their application so this item and all other items related to 401 W. Byrd on this agenda were pulled and will not be discussed at this meeting.

- H. Discuss & Consider Ordinance 632-PC 538A, ZC 217: An Ordinance amending the Future Land Use Plan to change land use designation of property located at 401 W. Byrd Boulevard, Universal City, Texas (CB 5768B BLK 8 LOT SW 250FT OF 39) from NS-Neighborhood Services to HDR-High Density Residential; providing for non-severability; and establishing an effective date. (1st Reading).**

Mayor Williams informed that the petitioner withdrew their application so this item and all other items related to 401 W. Byrd on this agenda were pulled and will not be discussed at this meeting.

- I. Public Hearing: Ordinance 655-E-2021 & P.C. 538.B (ZC 218)—A request for a Zone Change for a 4.8606 Ac tract located at 401 W. Byrd Boulevard (CB 5768B BLK 8 LOT SW 250FT OF 39) from C1-Neighborhood Services to R4-High Density Residential, per Zoning Ordinance 581.**

Mayor Williams informed that the petitioner withdrew their application so this item and all other items related to 401 W. Byrd on this agenda were pulled and will not be discussed at this meeting.

- J. Public Hearing: Ordinance 655-E-2021 & P.C. 538.C (SU 007) —A request for Specific Use Permit for a 4.8606 Ac tract located at 401 W. Byrd Boulevard (CB 5768B BLK 8 LOT SW 250FT OF 39) to allow a Group Residential use in a R4-High Density Residential District, per Zoning Ordinance 581.**

Mayor Williams informed that the petitioner withdrew their application so this item and all other items related to 401 W. Byrd on this agenda were pulled and will not be discussed at this meeting.

- K. Discuss & Consider Ordinance 655-E-2021: An Ordinance amending the zoning classification of property located at 401 W. Byrd Boulevard, Universal City, Texas (CB 5768B BLK 8 LOT SW 250FT OF 39) from C-1 Neighborhood Services District to R4-High Density Residential District with a Specific Use Permit to Touchstone Alliance, Inc. for a Group Residential Use in the form of Foster Care Facility; providing for non-severability; and establishing an effective date. (1st Reading).**

Mayor Williams informed that the petitioner withdrew their application so this item and all other items related to 401 W. Byrd on this agenda were pulled and will not be discussed at this meeting.

- L. Public Hearing: Ordinance 581-W-2021 & P.C. 539 & ZC 219—A request for text amendments to the following portions of the Code of Ordinances of the City of Universal City, Texas:**
- a. Chapter 4-5 – Zoning, Section 4-5-43 – Special Districts: to modify the Planned Unit Development purpose statement**
 - b. Chapter 4-5 – Zoning, Section 4-5-56 – Reserved: to establish Planned Unit Development requirements, including purpose, initiation, authorization, uses permitted, approval procedures, general standards, process, adjustments to approved final plans, development inspections, revocations and extensions, and conditions and guarantees**

Mrs. Turner said this item was also presented to the Planning and Zoning Meeting last night. She said that City currently has a Planned Unit Development ordinance in the Code, but it is vague and difficult for people to understand the processes. Working to make it easier for developers, Mr. Cassata worked to put this proposed ordinance together and asked him to elucidate.

Mr. Cassata explained that a Planned Unit Development (PUD) requires flexibility to allow Developers achieve their highest and best use for the property. This ordinance would streamline a process to get Developers to the finish line more quickly, give them more information upfront as to what is expected, give them a clearer timeline and the requirements for submittal and approval. A PUD in would be a distinct zoning district, not an overlay district, and be codified with its own set of rules. It is typically used to accommodate multiple or mixed uses.

Mr. Cassata stated that the process would be a 4-step process: (1) initial conversation with Staff and Developer to provide a general outline; (2) Developer to provide a concept plan presentation to City Council to define different types of uses and to get City Council's feedback; (3) Developer submits a more detailed Preliminary Plan which will go before the Planning and Zoning Commission and City Council; (4) Developer submits a Final Plan for approval by Planning and Zoning Commission and City Council. He said there is an option for the developer to work through the Preliminary and Final plans simultaneously.

Mayor Williams opened the Public Hearing at 7:50PM.

There being no comments, Mayor Williams closed the Public Hearing at 7:50PM.

Mrs. Turner used the presentation by Steve Raub at the last City Council meeting as an example of steps 1 and 2 of the proposed 4-step PUD process.

M. Discuss & Consider Ordinance 581-W-2021: An Ordinance amending certain sections of Ordinance 581, Chapter 4-5 Zoning Related to Planned Unit Developments of the Code of Ordinances, revising certain sections and paragraphs accordingly, providing severability, and setting an effective date. (1st Reading).

Councilmember Goolsby commented that the proposed ordinance was very well done and thanked Mr. Cassata for drafting it.

Councilmember Shelby asked if this process would be a required process if this ordinance was codified. Mr. Cassata said it would be required if staff required it, but there are some projects that would not need the Planned Use Development process, like for example a straight zoning project.

Mayor Pro Tem Neville asked how long this process would take. Mr. Cassata answered that it could take anywhere from 9 months to 1 year, depending on the architects and how quickly things are considered.

Councilmember Maxwell moved to approve Ordinance 581-W-2021. Councilmember Shelby seconded the motion.

Mayor Williams says this would be a great tool to give guidance to new developers coming to the community.

**Vote: Yeas: Maxwell, Shelby, Neville, Goolsby, Najarian, Volle
Nays: None**

10. CITY MANAGER COMMENTS:

City Manager Kim Turner:

1. Announced that 2020 brought the construction of 89 new single-family homes in the City. KB Homes has sold all its remaining lots in the Copano Ridge Subdivision. In the Orchard Park Subdivision, Meritage Homes currently has 12 new homes under construction and about that many more lots have been sold. Phase 2 plans for the Orchard Parks Subdivision are underway. 2021 is showing signs of being robust in terms of new home construction;
2. Reported that monitoring utility accounts provides an indication of the dynamic movement within the City. For 2020, 31 commercial facilities had first time or new tenant utility accounts set up. This represents about 12 percent of commercial tenants in the City. Residential areas had 675 calls for services to be turned on at existing homes; this equates to about 11 percent of homes having new occupants;
3. Informed that the Parkview Drainage Project is about 60% complete and moving along nicely;
4. Shared that parking lot work at Meadowland Park should begin this week followed by landscaping. Staff is anticipating that entire project will be completed in 45 days;
5. Announced that due to the lingering status of the pandemic, Snowfest 2021 is cancelled;
6. Invited the general public, Council and staff to attend the upcoming drop-in retirement celebrations for Chief Gary Speer and Court Administrator Linda Rose:
 - a. Police Chief Gary Speer: Wednesday, 20 January from 4:00 PM to 7:00 PM at the Olympia Hills Golf Course & Event Center
 - b. Court Administrator Linda Rose: Thursday, 21 January from 3:00 PM to 5:00 PM at the Olympia Hills Golf Course & Event Center.

11. COUNCILMEMBER COMMENTS:

Councilmember Volle apologized for missing the introduction of Ace the Fire Dog. She said that Ace has been working with Homes for the Homeless, who will be covering Ace's medical expenses.

Councilmember Maxwell said Happy New Year to all and hoped to get through the pandemic.

Councilmember Goolsby welcomed the new businesses to Universal City and thanked City staff for doing an amazing job.

Mayor Pro Tem Neville agreed that the City of Universal City has excellent staff. He also announced that his granddaughter was selected to join the new Space Force.

Councilmember Najarian shared that longtime resident and friend, Marsha Malone, passed away over Christmas Break. Mrs. Malone served as an election judge for many years. He announced that he was able to receive the first round of the COVID-19 vaccination. He also welcomed the new small businesses.

Councilmember Shelby also welcomed the new businesses and thanked City Staff for working to make the virtual meeting happen.

12. MAYORAL COMMENTS:

Mayor Williams mentioned that everyone will be able to get the COVID-19 vaccination eventually, just be patient and to continue social distancing and masking. He gave his condolences to the family of George Tucker. Mr. Tucker served on City Council in the early 1980s and passed away over the holidays.

13. ADJOURNMENT: Mayor Williams adjourned the meeting at 8:10 PM.

ATTEST:

John Williams, Mayor

Kristin Mueller, City Clerk